(8)

No. 87-1869

In the Supreme Court of the United States

OCTOBER TERM, 1988

ARCTIC SLOPE REGIONAL CORPORATION,
Petitioner

v.

FEDERAL ENERGY REGULATORY COMMISSION, *et al.*,
Respondents

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

---

REPLY OF ALASKA FEDERATION OF NATIVES TO THE RESPONSE OF THE OWNERS OF THE TRANS ALASKA PIPELINE SYSTEM IN OPPOSITION TO AFN'S MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

DONALD CRAIG MITCHELL
1552 Orca Street
Anchorage, Alaska 99501
(907) 276-1681
Counsel for Amicus Curiae

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

In the Supreme Court of the United States

OCTOBER TERM, 1988

No. 87-1869

ARCTIC SLOPE REGIONAL CORPORATION,
Petitioner

v.

FEDERAL ENERGY REGULATORY COMMISSION, *et al.*,
Respondents

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

REPLY OF ALASKA FEDERATION OF NATIVES TO THE RESPONSE OF THE OWNERS OF THE TRANS ALASKA PIPELINE SYSTEM IN OPPOSITION TO AFN'S MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

1. The Alaska Federation of Natives ("AFN") seeks leave to file a brief as *amicus curiae* to inform the Court of the broad impact of the decision below. Apparently, the TAPS owners confuse the function of an *amicus* brief with the criterion for intervention as a party. Response 2-3. Contrary to their assertions, it is entirely appropriate at the certiorari stage of the case for the AFN to advise the Court that persons other than Arctic will be injured by the ruling below.

2. The TAPS owners' accusation that the AFN's *amicus* brief contains "factual misstatements and erroneous statements of law" (Response 3) is baseless. Their statement that Arctic "presently earns *no* petroleum re-

lated revenue . . . since [Arctic] has not yet discovered oil" (*ibid.*) is flatly incorrect: As of June 30, 1987, Arctic had distributed some thirty-one million dollars from oil land lease bonus and rental payments to the other Regional Corporations pursuant to section 1606(i) of the Alaska Native Claims Settlement Act ("ANCSA"), 43 U.S.C. § 1606(i).[1] But for excessive TAPS tariffs, these payments would have been higher, and the adverse effect of the court of appeals' decision on Arctic's leasing program will reduce future payments.

3. The TAPS owners are similarly incorrect in their averment that the TAPS settlement will not affect § 1606(i) payments "because [Arctic] and all other regional corporations represented by AFN had been completely reimbursed through royalties collected on ANS crude petroleum." *Ibid.* The owners confuse payments due under § 1606(i) with payments due to the Alaska Native Fund, *see* 43 U.S.C. § 1605, pursuant to 43 U.S.C. § 1608. Section 1608 provided for payments of $500 million into the fund from royalties from oil development *on government lands.* This provision has nothing to do with the obligation pursuant to § 1606(i) for Regional Corporations to share current revenues.

Accordingly, the Alaska Federation of Natives respectfully requests that the Court grant its motion for leave to file a brief as *amicus curiae.*

Respectfully submitted,

DONALD CRAIG MITCHELL
1552 Orca Street
Anchorage, Alaska 99501
(907) 276-1681
Counsel for Amicus Curiae

August, 1988

[1] Section 1606(i) provides that "[s]eventy per centum of all revenues received by each Regional Corporation from . . . subsurface estate patented to it . . . shall be divided annually . . . among all twelve Regional Corporations." 43 U.S.C. § 1606(i).